

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Patrick Fagan & Christine Fagan,

CASE NO.: 08-22991 ash  
CHAPTER 13

Debtor(s).

Judge: Robert D. Drain

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**OBJECTION TO LOSS MITIGATION REQUEST**

**TO: THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE:**

Barbara Dunleavy, Esq., an attorney duly admitted to practice law before this Court, hereby affirms the following under penalty of perjury:

1. I am an attorney regularly associated with the law firm of Rosicki, Rosicki & Associates, P.C., attorneys for the secured creditor, Wells Fargo Bank, N.A. As Trustee Under Pooling And Servicing Agreement Dated as of August 1, 2005 Asset-Backed Pass-Through Certificates Series 2005-WHQ4 ("Wells Fargo") and make this affirmation in objection to the request for Loss Mitigation filed by the Debtor on September 30, 2009.

2. Claimant is a secured creditor of the Debtors pursuant to a Note and Mortgage Agreement executed by the Debtors, securing the property located at 105 West Clarkstown Road., New City, New York 10956 (the "Premises").

3. An adversary case was commenced by the Debtors alleging that, among other things, Wells Fargo violated RESPA and FDCPA (Adv Pro: 09-8292).

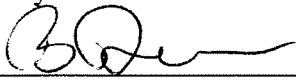
4. Based on the forgoing, the Debtor should not be eligible for the loss mitigation program while the adversary proceeding against Wells Fargo is pending. Therefore, Wells Fargo respectfully requests that Debtor's Loss Mitigation Request, be denied in all respects.

5. In the event this Court does grant Debtors' request, then it is respectfully requested that the adversary be put on hold until the loss mitigation is concluded.

**WHEREFORE**, Wells Fargo requests that Debtors' request be denied in its entirety, together with such other relief as this Court deems just and proper.

Dated: October 9, 2009  
Plainview, New York

ROSICKI, ROSICKI & ASSOCIATES, P.C.  
Attorneys for BONY

By:   
Barbara Dunleavy, Esq.  
51 E. Bethpage Road  
Plainview, New York 11803  
516-741-2585

To:

Patrick Fagan  
Debtor  
105 West Clarkstown Road  
New City, New York 10956

Christine Fagan  
Debtor  
105 West Clarkstown Road  
New City, New York 10956

Joshua N. Bleichman, Esq.  
Attorney for Debtor  
268 Route 59  
Spring Valley, NY 10977

Jeffrey L. Sapir, Esq.  
Trustee  
399 Knollwood Road, Suite 102  
White Plains, NY 10603

U.S. Trustee  
74 Chapel Street  
Albany, NY 12207

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Bonie Bonilla,

CASE NO.: 09-35976

CHAPTER 7

Debtor.

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**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF NASSAU     )

Catherine Jones, being duly sworn, deposes and says:

I am not a party to this action, am over 18 years of age and reside in Nassau County, New York.

On *October 9*, 2009, I served the within Objection to Loss Mitigation on the following parties, by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:


Patrick Fagan  
105 West Clarkstown Road  
New City, New York 10956

Christine Fagan  
105 West Clarkstown Road  
New City, New York 10956

Joshua N. Bleichman, Esq.  
268 Route 59  
Spring Valley, NY 10977

Jeffrey L. Sapir, Esq.  
399 Knollwood Road, Suite 102  
White Plains, NY 10603

U.S. Trustee  
74 Chapel Street  
Albany, NY 12207

  
Catherine Jones

Sworn to before me on this

*9th* day of *October*, 2009

  
NOTARY PUBLIC

Rose Saramago  
Notary Public State of New York  
No. 01SA6162000  
Qualified in Suffolk County  
Commission expires March 30, 2011

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Patrick Fagan and Christine Fagan,

CASE NO.: 08-22991

CHAPTER 7

Debtors.

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**OBJECTION TO LOSS MITIGATION**

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**ROSICKI, ROSICKI & ASSOCIATES, P.C.**  
Attorneys for BONY National Association, As Trustee  
51 E. Bethpage Road  
Plainview, New York 11803  
516-741-2585

***ROSICKI, ROSICKI & ASSOCIATES, P.C.***

***ATTORNEYS AT LAW***

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***Bdunleavy@rosicki.com***

October 9, 2009

United States Bankruptcy Court  
Southern District of New York  
300 Quarrapos Street  
White Plains, New York 10601

Re: Patrick Fagan & Christine Fagan  
Case No. 08-22991 ash


Dear Sir/Madam:

Enclosed please find one copy of the Objection to Loss Mitigation. Kindly submit same to the Court for its review and consideration.

Should you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

ROSICKI, ROSICKI & ASSOCIATES, P.C.

By:   
Barbara Dunleavy, Esq.

Encs.